

**Committee to Investigate Candidates for the South  
Carolina Department of Employment and Workforce**

SENATOR THOMAS C. ALEXANDER  
**Chairman**

REPRESENTATIVE KENNY BINGHAM  
**Vice Chairman**

SENATOR LUKE A. RANKIN  
SENATOR JOHN L. SCOTT  
REPRESENTATIVE JENNY HORNE  
REPRESENTATIVE JOE MCEACHERN  
GOVERNOR'S 3 APPOINTMENTS - TO  
COME



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**MEMORANDUM**

TO: The Honorable Luke Rankin  
The Honorable John Scott  
The Honorable Kenny Bingham  
The Honorable Jenny Horne  
The Honorable Joe McEachern  
Governor Haley's three (3) appointments - to come

cc: Ken Moffitt, Senate Counsel  
Jamey Goldin, House of Representatives Counsel  
Katherine Veldran, Legislative Liaison, Office of the Governor  
Katie Philpott, Boards and Commissions, Office of the Governor

FROM: Senator Thomas Alexander, Chairman

DATE: February 11, 2016

RE: Organizational Meeting for the Committee to Investigate  
Candidates for the SC Department of Employment and  
Workforce - Appellate Panel Members

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We will hold a meeting for the purposes of organizing on Thursday, February 25, 2016 at 1:30 p.m. in room #209 of the Gressette Building.

Please make every effort to attend this important meeting. If questions, please call Lisa Manini Widener at 212-6222. Thank you.

Attachments: About the committee  
About the Appellate Panel

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### **About the Department of Employment and Workforce Review Committee: Election of Appellate Panel in 2016**

*The Review Committee was established in Act 146 of 2010 to nominate three qualified applicants for the Governor to consider when appointing the Department of Workforce's Executive Director, to screen candidates for election to the Department's Appellate Panel, to conduct annual performance reviews of the Executive Director, and evaluate the Department's overall performance. The Review Committee is composed of three appointees by Senators, three appointees by members of the House of Representatives and three appointees by the Governor.*

*In 2016 the four-year terms of current Appellate Panel members will expire on July first. The General Assembly must hold elections to fill the panel seats for the next four year term. However, prior to the elections, the Review Committee will screen candidates for qualifications. A candidate may not be elected to the Appellate Panel unless first found qualified to serve.*

*Please see below statutes related to the Review Committee and its duties and the Appellate Panel.*

#### **SECTION 41-27-710. Committee membership; organization; meetings; quorum**

(A) The committee must be composed of nine members, three of whom must be members of the House of Representatives appointed by the Speaker, at least one of whom must be a member of the minority party; three of whom must be members of the Senate appointed by the President Pro Tempore, at least one of whom must be a member of the minority party; and three of whom shall be appointed by the Governor from the general public at large, of which one must represent businesses with fewer than fifty employees and one of whom must represent businesses with fewer than five hundred employees. A member of the general public appointed by the Governor may not be a member of the General Assembly.

(B) The committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and other officers as the committee considers necessary. Afterward, the

committee at least annually shall meet and at the call of the chairman or a majority of the members. A quorum consists of five members.

(C) Unless the committee finds a person qualified to serve as the Executive Director of the Department of Employment and Workforce, the person may not be appointed.

(D) A member of the committee that misses three consecutive scheduled meetings at which a quorum is present must be removed from and replaced on the committee by the person that appointed that member.

(E) The committee must discharge its duties related to screening and nominating qualified individuals for appointment by the Governor in the manner provided in Chapter 20, Title 2.

#### **SECTION 41-27-720. Duties of committee.**

The committee shall:

(1) nominate three qualified applicants for the Governor to consider in appointing the executive director. In order to be found qualified, the person must meet the minimum requirements as provided in Section 41-29-35. The committee must consider a person's experience and expertise in matters related to unemployment, workforce development, and economic development. A person may not be appointed to serve as the permanent executive director unless he is found qualified by the committee. If the Governor rejects all of the nominees, the committee must reopen the nominating process;

(2) screen Department of Employment and Workforce Appellate Panel candidates for qualifications. In order to be found qualified, the person must meet the minimum requirements as provided in Section 41-29-300(E). The committee must consider a person's experience and expertise in matters related to unemployment, workforce development, and economic development. A person may not be elected to serve on the Department of Employment and Workforce Appellate Panel unless he is found qualified by the committee;

(3) conduct an annual performance review of the executive director, which must be submitted to the General Assembly and the Governor. A draft of the executive director's performance review must be submitted to him, and the executive director must be allowed an opportunity to be heard before the committee before the final draft of the performance review is submitted to the General Assembly and the Governor;

(4) submit to the General Assembly and the Governor, on an annual basis, the committee's evaluation of the performance of the Department of Employment and Workforce. A proposed draft of the evaluation must be submitted to the Executive Director of the Department of Employment and Workforce before submission to the General Assembly and the Governor, and the Executive Director of the Department of Employment and Workforce must be given an opportunity to be heard before the committee before the completion of the evaluation and its submission to the General Assembly and the Governor;

(5) assist in developing an annual workshop of at least six contact hours concerning ethics and the Administrative Procedures Act for the executive director and employees of the Department of Employment and Workforce as the committee considers appropriate;

(6) make reports and recommendations to the General Assembly and the Governor on matters relating to the powers and duties set forth in this section;

(7) submit a letter to the General Assembly with the annual budget proposals of the Department of Employment and Workforce, indicating the committee has reviewed the proposals; and

(8) undertake additional studies or evaluations as the committee considers necessary.

**SECTION 41-29-300.** Department of Employment and Workforce Appellate Panel; creation; purpose; powers; composition.

(A) There is created the Department of Employment and Workforce Appellate Panel within the Department of Employment and Workforce, which is separate and distinct from the department's divisions. The sole purpose of the panel is to hear and decide appeals from decisions of the department's divisions.

(B)(1) The panel initially must be comprised of the members of the South Carolina Department of Employment and Workforce serving on the day before the effective date of this act. These initial panel members may serve in that temporary capacity until their successors are elected pursuant to this section.

(2) The members of the appellate panel must be elected by the General Assembly, in joint session, for terms of four years and until their successors have been elected and qualified, commencing on the first day of July in each presidential election year. Initial elections for members of the appellate panel must be held before May 22, 2010. The seats on the appellate panel are designated as Seat 1, Seat 2, and Seat 3.

(3) The appellate panel must elect one of its members to be chairman. A vacancy must be filled by the Governor through a temporary appointment until the next session of the General Assembly, at which time a joint session of the General Assembly shall elect an appellate panelist to fill the unexpired term.

(4) The appellate panelists shall receive such compensation as may be established under the provisions of Section 8-11-160 and for which funds have been authorized in the general appropriations act but not to exceed compensation that is commensurate with their hearing duties.

(C) A party only may appeal from a decision of the department directly to the panel. A party only may appeal a decision of the panel to an administrative law court in the manner provided in Section 41-35-750.

(D) A quorum must consist of two panel members and is necessary to hear or decide an appeal under subsection (C). A decision of the panel must be rendered in writing and is subject to disclosure under the Freedom of Information Act.

(E)(1) The Department of Employment and Workforce Review Committee must screen a person and find him qualified before he may be elected to serve as a member of the appellate panel. The qualifications that each panelist must possess, include, but are not limited to:

(a) a baccalaureate or more advanced degree from:

(i) a recognized institution of higher learning requiring face-to-face contact between its students and instructors prior to completion of the academic program;

(ii) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(iii) an institution of higher learning chartered before 1962; or

(b) a background of at least five years in any combination of the following fields of expertise:

(i) general business administration;

(ii) general business management;

(iii) management at the Department of Employment and Workforce, or its predecessor;

(iv) human resources management;

(v) finance; or

(vi) law.

(2) A member of the General Assembly may not be elected to serve as a panelist or appointed to be a panelist while serving in the General Assembly; nor shall a member of the General Assembly be elected or appointed to be a panelist for a period of two years after the member either:

(a) ceases to be a member of the General Assembly; or

(b) fails to file for election to the General Assembly in accordance with Section 7-11-15.

(3) When screening an appellate panel candidate and making its findings regarding the candidate, the South Carolina Department of Employment and Workforce Review Committee must give due consideration to a person's ability, area of expertise, dedication, compassion, common sense, and integrity.

(F)(1) A panelist is bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules, and the State Ethics Commission is responsible for enforcement and administration of Rule 501 pursuant to Section 8-13-320. A panelist also must comply with the applicable requirements of Chapter 13, Title 8.

(2) A panelist and his administrative assistant annually must attend and successfully complete a workshop of at least three continuing education hours in ethics.

(G) Notwithstanding another provision of law, it shall be mandatory for a member of the Department of Employment and Workforce Appellate Panel to retire not later than the end of the fiscal year in which he reaches his seventy-second birthday.

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**About the Position of the  
South Carolina Department of Employment and Workforce  
Appellate Panel Members**

*The Candidates for the South Carolina Department of Employment and Workforce Appellate Panel  
Member qualifications, in pertinent part:*

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